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16 *Counsel for Defendants*

17 **IN THE UNITED STATES DISTRICT COURT**
18 **FOR THE DISTRICT OF NEVADA**

19 DOROTHY HARRIS,

20 Plaintiff,

21 v.

22 C. R. BARD, INC. and BARD
23 PERIPHERAL VASCULAR, INC,

24 Defendants.

CASE NO. 2:20-cv-00612-JCM-BNW

25 **STIPULATION TO STAY DISCOVERY**
26 **AND ALL PRETRIAL DEADLINES**

27 Plaintiff Dorothy Harris (“Plaintiff”) and Defendants C. R. Bard, Inc. and Bard
28 Peripheral Vascular, Inc. (“Defendants” and collectively with Plaintiff, the
“Parties”), pursuant to Fed. R. Civ. P. 26(c) and (d) and LR IA 6-2, respectfully request that
this Court temporarily stay discovery and all pretrial deadlines until **August 29, 2020** while
the Parties pursue settlement discussions. In support thereof, the Parties state as follows:

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1 1. This case was part of the Multi-District Litigation proceeding *In re:*
2 *Bard IVC Filters Product Liability Litigation*, pending before Senior Judge David
3 Campbell of the District of Arizona.

4 2. Plaintiff alleges experiencing complications following the implantation
5 of a Bard Inferior Vena Cava (“IVC”) filter, a prescription medical device. She has
6 asserted three strict products liability counts (manufacturing defect, information defect
7 (failure to warn) and design defect), six negligence counts (design, manufacture,
8 failure to recall/retrofit, failure to warn, negligent misrepresentation and negligence
9 per se), two breach of warranty counts (express and implied), two counts sounding in
10 fraud (fraudulent misrepresentation and fraudulent concealment), an unfair and
11 deceptive trade practices count, and a claim for punitive damages.

12 3. Defendants deny the allegations contained in the Complaint.

13 4. After four years, the completion of general issue discovery, and the
14 conduct of three bellwether trials, Judge Campbell ordered that cases, which have not
15 settled or are not close to settling, be transferred or remanded to the appropriate
16 jurisdictions around the country for case-specific discovery and trial. As a part of that
17 process, he established a “track” system, wherein certain cases were placed on tracks
18 either to finalize settlement paperwork, continue settlement negotiations, or be
19 remanded or transferred.

20 5. This case was transferred to this Court on March 31, 2020 because at the
21 time it was not close to settling. But, since that date, the Parties have engaged in further
22 settlement discussions. The Parties believe that a stay is necessary to conserve their
23 resources and attention so that they may attempt to resolve this case and those of two
24 other plaintiffs represented by Plaintiff’s counsel with cases pending before this Court.

25 6. Accordingly, the Parties request that this Court issue an order staying
26 discovery and pretrial deadlines until August 29, 2020 to allow the Parties time to
27 continue to engage in settlement discussions. This will further facilitate settlement
28 discussions and prevent unnecessary expenditures of the Parties and judicial

resources as well as place this case on a similar “track” as the MDL cases Judge Campbell determined should continue settlement dialogue.

7. A district court has broad discretion over pretrial discovery rulings. *Crawford-El v. Britton*, 523 U.S. 574, 598 (1998); *accord, Republic of Ecuador v. Hinchee*, 741 F.3d 1185, 1188-89 (11th Cir. 2013); *Thermal Design, Inc. v. Am. Soc’y of Heating, Refrigerating & Air-Conditioning Engineers, Inc.*, 755 F.3d 832, 837 (7th Cir. 2014); *see also, Cook v. Kartridg Pak Co.*, 840 F.2d 602, 604 (8th Cir. 1988) (“A district court must be free to use and control pretrial procedure in furtherance of the orderly administration of justice.”).

8. Under Federal Rules of Civil Procedure 26(c) and 26(d), a court may limit the scope of discovery or control its sequence. *Britton*, 523 U.S. at 598. Although settlement negotiations do not automatically excuse a party from its discovery obligations, the parties can seek a stay prior to the cutoff date. *Sofo v. Pan-American Life Ins. Co.*, 13 F.3d 239, 242 (7th Cir. 1994); *see also, Wichita Falls Office Assocs. V. Banc One Corp.*, 978 F.2d 915, 918 (5th Cir. 1993) (finding that a “trial judge’s decision to curtail discovery is granted great deference,” and noting that the discovery had been pushed back a number of times because of pending settlement negotiations).

9. Facilitating the efforts of parties to resolve their disputes weighs in favor of granting a stay. In *Coker v. Dowd*, 2:13-cv-0994-JCM-NJK, 2013 U.S. Dist. LEXIS 201845, at *2-3 (D. Nev. July 8, 2013), the parties requested a 60-day stay to facilitate ongoing settlement negotiations and permit them to mediate global settlement. The Court granted the stay, finding the parties would be prejudiced if required to move forward with discovery at that time and a stay would potentially prevent an unnecessary complication in the case. *Id.* at *3. Similarly, the Parties in the present case are engaged in ongoing comprehensive settlement negotiations with Plaintiff and the other two plaintiffs represented by Plaintiffs’ counsel.

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10. The Parties agree that the relief sought herein is necessary to handle the case in the most economical fashion yet allow sufficient time to schedule and complete discovery if necessary, consistent with the scheduling obligations of counsel. The relief sought in this Motion is not being requested for delay, but so that justice may be done.

WHEREFORE, Plaintiff and Defendants respectfully request the Court's approval of this stipulation to stay discovery and all pretrial deadlines until **August 29, 2020** to allow the Parties to conduct ongoing settlement negotiations.

IT IS SO STIPULATED

Respectfully submitted on August 5, 2020.

WENDT LAW FIRM, P.C.

GREENBERG TRAURIG, LLP

By: /s/ Samuel M. Wendt

By: /s/ Eric W. Swanis

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IT IS SO ORDERED.

BRENDA WEKSLER

United States Magistrate Judge

Dated this 6th of August 2020.